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JUN 16 2006

**OFFICE OF PETITIONS**

In re Application of :  
Nam Ngo et al. :  
Application No. 10/776,694 : DECISION ON PETITION  
Filed: February 12, 2004 : UNDER 37 C.F.R. §1.137(B)  
Title: DEVICES AND METHODS :  
FOR THE SYNTHESIS OF NUCLEIC :  
ACIDS :  
:

This is a decision on the petition filed December 12, 2005, pursuant to 37 C.F.R. §1.137(b)<sup>1</sup>, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed May 17, 2004, which set a shortened statutory period for reply of two (2) months. The notice indicated that the basic filing fee, a properly executed oath or declaration along with the surcharge associated with the late submission of the same would be required. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 18, 2004. With the present petition, Petitioner has submitted a declaration, the surcharge associated with the late submission of the same, the petition fee, the basic filing fee, additional

1 A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

claim fees, a terminal disclaimer and the surcharge associated with the same.

No terminal disclaimer is required. As such, the terminal disclaimer will not be entered, and the associated fee will be refunded via the preparation of a treasury check in due course.

It is noted that the declaration which Petitioner has submitted is the declaration which is appropriate for applications in which an Application Data Sheet (ADS) has been filed. The electronic file has been reviewed, and it does not appear to contain an ADS. As such, the declaration cannot be accepted.

As such, this petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.137(b)," and must include a completed ADS and a newly executed declaration. This is not a final agency action within the meaning of 5 U.S.C 704.

For guidance on the preparation of an ADS, see the following website:

<http://www.uspto.gov/web/offices/pac/dapp/sir/doc/patappde.html>

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail<sup>2</sup>, hand-delivery<sup>3</sup>, or facsimile<sup>4</sup>.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

  
Paul Shanoski  
Senior Attorney  
Office of Petitions  
United States Patent and Trademark Office

<sup>2</sup> Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

<sup>3</sup> Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

<sup>4</sup> (571) 273-8300- please note this is a central facsimile number.